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## Saltworks to try smaller plan

May 31, 2012, 05:00 AM By Michelle Durand Daily Journal Staff

Less than a month after developers withdrew a stalled proposal to build up to 12,000 houses on former salt ponds in Redwood City, the group unveiled plans to cut the footprint in half and seek federal regulatory input before returning to the city.

On Tuesday, DMB Pacific Ventures and Cargill filed a request with the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers for a formal decision on what extent, if at all, they have jurisdiction over the Saltworks site. David Smith, senior vice president of DMB Pacific Ventures, said looking to the federal agencies before starting a new public process in Redwood City is responsible and a way to first clarify what can even be built on the land.

Asking for the jurisdictional determination "doesn't directly impact what the city does or doesn't do but just because they approve it doesn't mean it is in compliance with federal laws," Smith said. "The city could approve something we can't build."

The new plan will be less than half the acreage of the now-defunct 50-50 Balanced Plan which called for reserving 50 percent of the 1,436 acres as permanent open space, public recreation and tidal marsh restoration and develop the remaining half into housing, schools, parks and retail and transit facilities. Up to 12,000 homes would have been built under this plan.

The latest proposal would limit development to areas near Seaport Boulevard designated "urban reserve" in the city's general plan and which Smith said has the longest history of being disturbed and utilized for industrial purposes over the last century. DMB was already looking a scaled-down proposal but also used public input over the last six years to reframe its vision for the former salt production site, Smith said.

Specific numbers on housing units haven't been penciled out but Smith said the smaller plan should still be able to deliver previously promised transit and parks. Sports fields will have smaller acreage and more of the site would be available for environmental restoration and wetland re-creation, he said.

The consolidated plan may also affect regulatory approval. DMB believes the area within the perimeter does not fall under federal jurisdiction but Smith said that is why the developers are asking sooner rather than later. The agencies could agree, they could focus on areas DMB isn't seeing or maybe they point out areas the plan can outright avoid, he said.

"We think it makes greater sense to call the question now," Smith said.

In 2009, DMB asked for a preliminary jurisdictional determination on the 50-50 plan but that did not require the developers to agree the agencies had authority. Instead, they acted as though it was a hypothetical to assess what a permit might look like without actually seeking an official ruling.

David Lewis, executive director of Save the Bay, which opposes any development at the site, said the request shows DMB is "just not listening or not liking the answers."

The federal agencies make determinations based on the land, not the plan, so even an altered proposal should return the same conclusion, Lewis said.

"I'm concerned that they're not listening when the community says it doesn't like the project and not listening when agencies say they have jurisdiction over the site," Lewis.

Redwood City Neighbors United, a group formed in response to the proposal also urged DMB to "respect the community's vision and stop wasting time and resources on entertaining a project that is both unnecessary and inappropriate."

Earlier this month, DMB formally withdrew its 50-50 Balanced Plan as the City Council announced plans to deny the project because it had sat for three years without the description necessary to complete the application and finish environmental reviews. Formally denying the proposal freed the city from time-consuming and costly functions like responding to constant public inquiries, polls, petitions and numerous other efforts for and against the controversial development idea, according to city officials.

Smith said the public buzz around with the withdrawal was unfounded as the 50-50 plan had been all but formally withdrawn by that point and they were working on the new footprint.

"I don't mean to diminish what the city has done. It was A-OK but it didn't really alter what we were on the path to do," he said.

Michelle Durand can be reached by email: [michelle@smdailyjournal.com](mailto:michelle@smdailyjournal.com) or by phone: (650) 344-5200 ext. 102.

## Redwood City Saltworks developer seeks to avoid federal environmental rules

By Bonnie Eslinger Daily News Staff Writer San Jose Mercury News  
Posted:

MercuryNews.com

In a move that could allow it to elude some environmental regulations, DMB Pacific Ventures on Wednesday asked two federal agencies to declare whether they have any say over what happens to the Cargill salt flats in Redwood City it wants to develop.

DMB, which early last month withdrew its polarizing Saltworks project and indicated it will later submit a scaled-back proposal, said it wants the Army Corps of Engineers and the Environmental Protection Agency to determine that the vast majority of the 1,400 acres of salt flats are not "waters of the United States" subject to their authority.

If that's the case, DMB's development wouldn't have to adhere to the federal Clean Water Act or the Rivers and Harbors Act, both of which tightly restrict what kind of developments can occur on bayfront property.

"We need some clarity from the federal regulatory agencies as we move forward and we actually think that's important enough we're going to approach them before we bring and unveil our revised proposal to the city," DMB Senior Vice President David Smith said.

Three years ago, DMB submitted an application to Redwood City proposing to build as many as 12,000 homes, several office buildings, shops and schools on one half of Cargill's property and provide parks, open space and restored tidal marshes on the other half. The proposal has drawn fierce opposition from environmental groups, area politicians and others who contend the property should be restored to its original state as wetlands.

Without being specific, Smith said the company is working on a revised proposal in response to public feedback that calls for half of the original development acreage and additional wetlands restoration. But that plan won't be released until the company settles the matter of jurisdiction, which could take at least several months, he said.

If the Army Corps and EPA rule that they do have jurisdiction over the Cargill site, that in itself would not necessarily kill the Saltworks project but could make the developer jump through a plethora of costly and time-consuming hoops.

Smith told The Daily News he wouldn't rule out legal action if the agencies conclude they do have jurisdiction.

In a letter accompanying DMB's request, Smith asserts that the Cargill property doesn't fall under either federal agency's jurisdiction because "major portions" have been used for agricultural and industrial operations as early as the 1860s and are now "surrounded by levees which sever any connection to the San Francisco Bay."

Smith wrote that today's site "does not constitute 'waters of the United States' under Corps and EPA regulations," a position supported by recent case law. One of the cases he cites led to a 2007 decision

by the U.S. Ninth Circuit Court of Appeals in San Francisco that Cargill's 17-acre site adjacent to the Mowry Slough near Newark doesn't fall under the Clean Water Act. The appellate court struck down a district court's earlier ruling that the property was subject to the act because it was next to San Francisco Bay.

Jason Flanders, program director of San Francisco Baykeeper -- one of two environmental groups that sued over the Newark project -- said DMB shouldn't rely too heavily on that ruling because it was site specific. Ultimately, federal agencies have authority if there's "chemical biological connectivity" between a salt pond site and the Bay, he said.

"You can't just partition off a part of the Bay and say it's no longer part of the Bay," Flanders said.

Merry Goodenough, district counsel for the Army Corps of Engineers, said there is legal precedence for determining the agency has jurisdiction over salt ponds, particularly under the Rivers and Harbors Act, if it could be shown that with improvements, tidal waters could be restored to "navigable waters."

Despite what the Army Corps and the Environmental Protection Agency determine, the Saltworks plan would still have to be approved by more than a dozen other agencies, departments and boards for approval, as well as Redwood City.

Email Bonnie Eslinger at [beslinger@dailynewsgroup.com](mailto:beslinger@dailynewsgroup.com).

## Andree Greenberg - Cargill Saltworks developer seeks to avoid federal environmental rules

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**From:** Stephen Knight <sknight@savesfbay.org>  
**To:** Andree Greenberg <agreenberg@waterboards.ca.gov>  
**Date:** 5/31/2012 5:52 PM  
**Subject:** Cargill Saltworks developer seeks to avoid federal environmental rules

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In the news today, Cargill/DMB seek to avoid federal environmental protections after facing widespread opposition and rejection of their development plan by Redwood City.

The Environmental Protection Agency, Army Corps and other regulatory agencies have already affirmed that these threatened salt ponds are part of San Francisco Bay. Cargill/DMB just don't get that Redwood City and the region do not want their development. The bottom line is that restorable Bay salt ponds *are an unacceptable place for housing*. Cargill/DMB are "just not listening or not liking the answers."

--  
Stephen Knight  
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By Bonnie Eslinger  
Daily News Staff WriterPosted: 05/30/2012 06:20:26 PM PDT  
Updated: 05/31/2012 10:24:08 AM PDT

### Redwood City Saltworks developer seeks to avoid federal environmental rules

A view includes salt crystallizer beds at the site where the Saltworks housing and development project has been proposed on Wednesday May 30, 2012, in Redwood City. The Saltworks developers announced that they are shifting their battle to the federal front. Before submitting a scaled-back project to Redwood City, the developers want the U.S. Army Corps of Engineers and Environmental Protection Agency to determine whether they have jurisdiction over the salt flats that would become a mini-city. (Dai Sugano/Staff)

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Without being specific, Smith said the company is

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